

LEGISLATURE OF NEBRASKA
NINETY-SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 270

Introduced by Hudkins, 21

Read first time January 5, 2001

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to the Uniform Licensing Law; to amend section
2 71-102, Reissue Revised Statutes of Nebraska, and
3 sections 71-101, 71-110, and 71-162, Revised Statutes
4 Supplement, 2000; to provide for licensure for
5 acupuncturists; to create a fund; to harmonize
6 provisions; and to repeal the original sections.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 71-101, Revised Statutes Supplement,
2 2000, is amended to read:

3 71-101. Sections 71-101 to 71-1,107.30, 71-1,133 to
4 71-1,338, 71-1,343, 71-1301 to 71-1354, and 71-2801 to 71-2822 and
5 sections 5 to 11 of this act shall be known and may be cited as the
6 Uniform Licensing Law.

7 For purposes of the Uniform Licensing Law, unless the
8 context otherwise requires:

9 (1) Board or professional board means one of the boards
10 appointed by the State Board of Health;

11 (2) Licensed, when applied to any licensee in any of the
12 professions named in section 71-102, means a person licensed under
13 the Uniform Licensing Law;

14 (3) Profession or health profession means any of the
15 several groups named in section 71-102;

16 (4) Department means the Department of Health and Human
17 Services Regulation and Licensure;

18 (5) Whenever a particular gender is used, it is construed
19 to include both the masculine and the feminine, and the singular
20 number includes the plural when consistent with the intent of the
21 Uniform Licensing Law;

22 (6) License, licensing, or licensure means permission to
23 engage in a health profession which would otherwise be unlawful in
24 this state in the absence of such permission and which is granted
25 to individuals who meet prerequisite qualifications and allows them
26 to perform prescribed health professional tasks and use a
27 particular title;

28 (7) Certificate, certify, or certification, with respect

1 to professions, means a voluntary process by which a statutory,
2 regulatory entity grants recognition to an individual who has met
3 certain prerequisite qualifications specified by such regulatory
4 entity and who may assume or use the word certified in the title or
5 designation to perform prescribed health professional tasks. When
6 appropriate, certificate means a document issued by the department
7 which designates particular credentials for an individual;

8 (8) Lapse means the termination of the right or privilege
9 to represent oneself as a licensed, certified, or registered person
10 and to practice the profession when a license, certificate, or
11 registration is required to do so; and

12 (9) Credentialing means the totality of the process
13 associated with obtaining state approval to provide health care
14 services or human services or changing aspects of a current
15 approval. Credentialing grants permission to use a protected title
16 that signifies that a person is qualified to provide the services
17 of a certain profession. Credential includes a license,
18 certificate, or registration.

19 Sec. 2. Section 71-102, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 71-102. (1) No person shall engage in the practice of
22 medicine and surgery, athletic training, respiratory care,
23 osteopathic medicine, chiropractic, dentistry, dental hygiene,
24 pharmacy, podiatry, optometry, massage therapy, physical therapy,
25 audiology, speech-language pathology, embalming, funeral directing,
26 psychology, veterinary medicine and surgery, medical nutrition
27 therapy, acupuncture, or mental health practice unless such person
28 has obtained a license from the Department of Health and Human

1 Services Regulation and Licensure for that purpose.

2 (2) No person shall hold himself or herself out as a
3 certified social worker or certified master social worker unless
4 such person has obtained a certificate from the department for that
5 purpose.

6 (3) No person shall hold himself or herself out as a
7 certified professional counselor unless such person has obtained a
8 certificate from the department for such purpose.

9 (4) No person shall hold himself or herself out as a
10 certified marriage and family therapist unless such person has
11 obtained a certificate from the department for such purpose.

12 Sec. 3. Section 71-110, Revised Statutes Supplement,
13 2000, is amended to read:

14 71-110. (1) The credential to practice a profession
15 shall be renewed biennially, ~~except as provided in sections~~
16 ~~71-1,228 and 71-1,294,~~ upon request of the credentialed person,
17 without examination. The biennial credential renewals provided for
18 in this section shall be accomplished in such manner as the
19 department, with the approval of the appropriate professional
20 board, shall establish by rule and regulation. The biennial
21 expiration date in the different professions shall be as follows:

- 22 (a) January, pharmacy and psychology;
23 (b) February, funeral directing and embalming;
24 (c) March, dentistry and dental hygiene;
25 (d) April, podiatry and veterinary medicine and surgery;
26 (e) May, athletic training and acupuncture;
27 (f) June, respiratory care;
28 (g) August, chiropractic and optometry;

1 (h) September, medical nutrition therapy, mental health
2 practice including any associated certification, and osteopathic
3 medicine;

4 (i) October, medicine and surgery;

5 (j) November, massage therapy and physical therapy; and

6 (k) December, audiology and speech-language pathology.

7 The request for renewal need not be in any particular
8 form and shall be accompanied by the legal fee. Such fee shall be
9 paid not later than the date of the expiration of such credential,
10 except that while actively engaged in the military service of the
11 United States, as defined in the Soldiers' and Sailors' Civil
12 Relief Act of 1940, as amended, persons credentialed to practice
13 the professions listed in this subsection shall not be required to
14 pay the renewal fee.

15 (2) When a person credentialed pursuant to the Uniform
16 Licensing Law desires to have his or her credential lapse upon
17 expiration, he or she shall notify the department of such desire in
18 writing. The department shall notify the credentialed person in
19 writing of the acceptance or denial of the request to allow the
20 credential to lapse. When the lapsed status becomes effective, the
21 right to represent himself or herself as a credentialed person and
22 to practice the profession in which a license is required shall
23 terminate. To restore the credential, such person shall be
24 required to meet the requirements for credentialing which are in
25 effect at the time that he or she wishes to restore the credential.

26 (3) When a person credentialed pursuant to the Uniform
27 Licensing Law desires to have his or her credential placed on
28 inactive status upon its expiration, he or she shall notify the

1 department of such desire in writing and pay a fee of thirty-five
2 dollars. The department shall notify the credentialed person in
3 writing of the acceptance or denial of the request to allow the
4 credential to be placed on inactive status. When the credential is
5 placed on inactive status, the credentialed person shall not engage
6 in the practice of such profession. A credential may remain on
7 inactive status for an indefinite period of time. In order to move
8 a credential from inactive to active status, a person shall
9 complete the continuing education requirements in effect at the
10 time he or she wishes to regain active status and pay the renewal
11 fee then due.

12 (4) At least thirty days before the expiration of a
13 credential, the department shall notify each credentialed person by
14 a letter addressed to him or her at his or her last place of
15 residence as noted upon its records. Any credentialed person who
16 fails to notify the department of his or her desire to let his or
17 her credential lapse or be placed on inactive status upon its
18 expiration or who fails to pay the renewal fee on or before the
19 date of expiration of his or her credential shall be given a second
20 notice in the same manner as the first notice advising him or her
21 (a) of the failure to pay, (b) that the credential has expired, (c)
22 that the department will suspend action for thirty days following
23 the date of expiration, (d) that upon the receipt of the renewal
24 fee, together with an additional fee of twenty-five dollars, within
25 that time, no order of revocation will be entered, and (e) that
26 upon the failure to receive the amount then due and twenty-five
27 dollars in addition to the regular renewal fee, the credential will
28 be revoked in the manner prescribed in section 71-149.

1 (5) Any credentialed person who fails to renew his or her
2 credential may be reinstated upon the recommendation of the board
3 for his or her profession and the payment of the renewal and any
4 additional fees and an additional fee of fifty dollars if an
5 application for reinstatement is made more than thirty days after
6 expiration and not more than one year from the date of revocation.

7 (6) Any credentialed person who applies for reinstatement
8 more than one year after revocation shall pay the renewal fee and
9 an additional fee of seventy-five dollars and petition the board to
10 recommend reinstatement as prescribed in section 71-161.05.

11 Sec. 4. Section 71-162, Revised Statutes Supplement,
12 2000, is amended to read:

13 71-162. (1) The following fees shall be collected by the
14 department and remitted to the State Treasurer:

15 (a) Not less than fifty dollars and not more than three
16 hundred dollars for a license issued on the basis of an examination
17 given by the department or organization specified by the department
18 or for a license issued by reciprocity to practice acupuncture,
19 audiology, athletic training, chiropractic, dental hygiene,
20 dentistry, funeral directing and embalming, massage therapy,
21 optometry, pharmacy, physical therapy, podiatry, respiratory care,
22 speech-language pathology, veterinary medicine, or mental health
23 practice, except that the fee for a provisional mental health
24 practitioner license is as prescribed in subdivision (i) of this
25 subsection;

26 (b) Not less than one hundred dollars and not more than
27 six hundred dollars for a license issued on the basis of
28 examination or by reciprocity to practice psychology;

1 (c) Not less than three hundred dollars and not more than
2 seven hundred seventy-five dollars for a license issued on the
3 basis of examination given by the department or organization
4 specified by the department to practice medicine and surgery or
5 osteopathic medicine, and not less than two hundred dollars and not
6 more than five hundred dollars for a license issued by reciprocity
7 to practice medicine and surgery or osteopathic medicine;

8 (d) For issuance or renewal of a certificate as a
9 certified professional counselor or for certification by
10 reciprocity, not less than twenty-five dollars and not more than
11 five hundred dollars;

12 (e) For issuance or renewal of a certificate as a
13 certified social worker or a certified master social worker, for
14 issuance of a provisional certification as a master social worker,
15 or for certification by reciprocity, not less than twenty-five
16 dollars and not more than five hundred dollars;

17 (f) For issuance or renewal of a certificate as a
18 certified marriage and family therapist or for certification by
19 reciprocity, not less than twenty-five dollars and not more than
20 five hundred dollars;

21 (g)(i) For a license to operate a massage therapy school,
22 not less than one hundred dollars and not more than three hundred
23 dollars, and for renewal of a license, not less than one hundred
24 dollars and not more than four hundred dollars, and (ii) for a
25 license to operate a massage therapy establishment, not less than
26 one hundred dollars and not more than three hundred dollars, and
27 for renewal of a license, not less than one hundred dollars and not
28 more than four hundred dollars;

1 (h) For a license as a licensed medical nutrition
2 therapist, not less than fifty dollars and not more than three
3 hundred dollars. The fee for renewal of a license as a licensed
4 medical nutrition therapist shall be not less than twenty dollars
5 and not more than five hundred dollars. The fee for licensure by
6 reciprocity shall be not less than fifty dollars and not more than
7 three hundred dollars;

8 (i) For issuance of a provisional mental health
9 practitioner license, not less than twenty-five dollars and not
10 more than one hundred dollars;

11 (j) For the biennial renewal of a license to practice
12 medicine and surgery, osteopathic medicine, psychology, or any of
13 the professions enumerated in subdivision (a) of this subsection,
14 not less than twenty dollars and not more than five hundred
15 dollars;

16 (k) For a certified statement that a credentialed person
17 is credentialed in this state, twenty-five dollars, and for
18 verification that a credentialed person is credentialed in this
19 state, five dollars; and

20 (1) For a duplicate original or reissued credential, ten
21 dollars.

22 All money paid as credentialing and renewal fees shall be
23 kept in a separate fund to be used for the benefit of the
24 profession so paying such fees.

25 (2) The department, upon the recommendation of the
26 appropriate professional board, shall adopt and promulgate rules
27 and regulations to specify the fee to be charged for the cost of
28 the licensure or certification examination, for licensure or

1 certification, and for licensure or certification renewal in each
2 profession enumerated in subsection (1) of this section. The fee
3 for the licensure or certification examination shall not exceed the
4 cost of such examination.

5 Sec. 5. For purposes of the Uniform Licensing Law:

6 (1) Acupuncture means the insertion, manipulation, and
7 removal of acupuncture needles and the application of manual,
8 mechanical, thermal, electrical, and electromagnetic treatment to
9 such needles at specific points or meridians on the human body for
10 the promotion, maintenance, and restoration of health and the
11 treatment of disease, based on traditional and modern oriental
12 medical principles. Acupuncture may include the recommendation of
13 therapeutic exercises, dietary guidelines, and nutritional support
14 to promote the effectiveness of the acupuncture treatment.
15 Acupuncture does not include manipulation or mobilization of or
16 adjustment to the spine, extraspinal manipulation, or the practice
17 of medical nutrition therapy;

18 (2) Acupuncturist means a person engaged in the practice
19 of acupuncture; and

20 (3) Commission means the National Certification
21 Commission for Acupuncture and Oriental Medicine.

22 Sec. 6. Sections 5 to 10 of this act do not apply to:

23 (1) Any other health care practitioner credentialed under
24 the Uniform Licensing Law practicing within the scope of his or her
25 profession;

26 (2) A student practicing acupuncture under the
27 supervision of a person licensed to practice acupuncture under the
28 Uniform Licensing Law as part of a course of study approved by the

1 department; or

2 (3) The practice of acupuncture by any person licensed or
3 certified to practice acupuncture in any other jurisdiction when
4 practicing in an educational seminar sponsored by a state-approved
5 acupuncture or oriental medical college or professional
6 organization if the practice is supervised directly by a person
7 licensed to practice acupuncture under the Uniform Licensing Law.

8 Sec. 7. It is unlawful to practice acupuncture on a
9 person in this state unless the acupuncturist is licensed to
10 practice acupuncture under the Uniform Licensing Law and has a
11 prior letter of referral from or a medical diagnosis and evaluation
12 completed by a practitioner licensed to practice medicine and
13 surgery or osteopathic medicine and surgery within twelve months
14 immediately preceding the date of an initial acupuncture treatment.

15 Sec. 8. The practice of acupuncture shall not be
16 performed upon any person except with the voluntary and informed
17 consent of such person. Information provided in connection with
18 obtaining such informed consent shall include, but not be limited
19 to, the following:

20 (1) The distinctions and differences between the practice
21 of acupuncture and traditional western medicine;

22 (2) The disclosure that an acupuncturist is not licensed
23 to practice medicine or to make a medical diagnosis of the person's
24 disease or condition and that a physician should be consulted for
25 such medical diagnosis;

26 (3) The nature and the purpose of the acupuncture
27 treatment; and

28 (4) Any medical or other risks associated with such

1 treatment.

2 Sec. 9. An applicant for a license to practice
3 acupuncture shall apply to the department on forms provided by the
4 department. The application shall include, but not be limited to,
5 documentation that: (1) The applicant has current active status as
6 a diplomate in acupuncture of the commission or its successor
7 organization or is currently credentialed in good standing to
8 practice acupuncture in another jurisdiction with standards at
9 least as stringent as those in this state; and (2) completion of a
10 course in clean needle technique approved by the commission.

11 Sec. 10. A limited license to practice acupuncture may
12 be issued to a person who is teaching in a school of acupuncture in
13 this state and has at least five years of experience as a licensed
14 acupuncturist in good standing in another jurisdiction. Such
15 license may be issued for one year and may be renewed for an
16 additional year. The fee for such license shall be the same as
17 that provided in section 71-162.

18 Sec. 11. The Acupuncturist Fund is created. All money
19 in the fund shall be used exclusively by the department to carry
20 out the statutory and regulatory duties pertaining to the practice
21 of acupuncture. The State Treasurer shall credit to the fund all
22 certification and renewal fees for the practice of acupuncture
23 remitted to the State Treasurer by the department pursuant to
24 section 71-162. Any money in the fund available for investment
25 shall be invested by the state investment officer pursuant to the
26 Nebraska Capital Expansion Act and the Nebraska State Funds
27 Investment Act.

28 Sec. 12. Original section 71-102, Reissue Revised

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- 1 Statutes of Nebraska, and sections 71-101, 71-110, and 71-162,
- 2 Revised Statutes Supplement, 2000, are repealed.